

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

UNITED STATES OF AMERICA

§
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§
§

v.

NO. 1:11-CR-27

MARVIN MAURICE COTTON

§

**ORDER OVERRULING OBJECTIONS AND ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS**

Defendant, Marvin Maurice Cotton, moves to suppress incriminating evidence obtained during a search of his vehicle during a traffic stop on Interstate Highway 10 on February 18, 2011.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, for consideration pursuant to applicable laws and orders of this court. Judge Hawthorn concluded that there was no unreasonable search or seizure, and therefore recommended that the motion to suppress be denied.

The Defendant raises four specific objections to the magistrate judge's findings, conclusions, and analysis. This requires a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made. 28 U.S.C. § 636(b)(1)(C).

First, the Defendant objects to the magistrate's finding that the initial stop of his vehicle was justified. In making his argument, the Defendant fails to recognize that Lt. Viator need only have probable cause or reasonable suspicion that a traffic violation was committed in order to precipitate a traffic stop - a definitive finding of criminal responsibility is not required. For the reasons discussed in the magistrate judge's report and recommendation, this Court finds that Lt. Viator had

probable cause to believe that the Defendant committed a traffic violation; accordingly, the initial stop was valid.

Second, the Defendant objects to the magistrate judge's finding that the secondary detention was not the result of an unlawful search. Specifically, the Defendant asserts that "no discussion was made as to the Secondary Detention of the Defendant." Dckt. No. 49, pg 5. The magistrate judge clearly and articulately discusses the secondary detention at pages 10-12 of his report and recommendation. The Defendant raises no significant new arguments that the magistrate judge did not carefully consider and correctly evaluate.

The Defendant's third objection challenges the magistrate's finding that the search of the vehicle was legal. Again, with respect to this issue the Defendant raises no significant new arguments that the magistrate judge did not consider and correctly evaluate.

On his fourth objection, the Defendant disputes the finding made relating to the search of the closed plastic bundle found inside the car panel. This Court adopts the reasoning provided by the magistrate in his report and recommendation, and concludes that based on a totality of the circumstances, Lt. Viator had probable cause to believe the bundle contained narcotics.

After conducting a de novo review, the court concludes that the magistrate judge's findings, conclusions and analysis are correct. Accordingly, the Defendant's objections are **OVERRULED**, and the report of the magistrate judge is **ADOPTED**. It is further

ORDERED that the Defendant's motion to suppress (Docket No. 36) is **DENIED**.

SIGNED this the 2 day of December, 2011.



Thad Heartfield
United States District Judge